

## Unions Sue to Stop Wisconsin's New Right-to-Work Law

By Philip B. Rosen and Gregory H. Andrews

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*The day after Wisconsin Governor Scott Walker (R) signed the state's new right-to-work act, unions struck back with a complaint and a motion for a restraining order and temporary injunction. Three unions in Wisconsin, the International Association of Machinists and Aerospace Workers ("IAM") District 10 and Local 1061, the United Steelworkers ("USW"), and the AFL-CIO, banded together against the State of Wisconsin, Governor Walker, and a handful of Wisconsin state agency officials to seek injunctive relief in Dane County Circuit Court.*

Similar to unsuccessful lawsuits against the right-to-work laws passed in Indiana and Michigan, this lawsuit and motion for injunctive relief is based on the takings clause embodied in Article I, Section 13 of the Constitution of the State of Wisconsin, which states, "The property of no person shall be taken for public use without just compensation therefor."

According to paragraph 22 of the complaint, the unions claim they "have a property interest in their collective bargaining agreements with employers in the private sector." In addition, the unions claim a property interest in "their money, tangible property used in the representation of employees, and the services of their members and agents for the purposes of contract negotiation, administration, enforcement and grievance processing and arbitration." The unions claim they will suffer irreparable harm if the law passes.

As argued in previous cases, the unions claim that it is unfair for them to be required to represent all members of a bargaining unit if they are not all dues paying members. This is known as the "free rider" problem and arises from an application of the duty-of-fair-representation requirement of Section 9 of the National Labor Relations Act. Other courts, including the Indiana Supreme Court, the Michigan Supreme Court, and the U.S. Court of Appeals for the Seventh Circuit (Chicago) have all previously disagreed with the union's argument and ruled against the unions on this same.

The unions' motion for temporary restraining order is scheduled to be heard in Dane County on March 19, 2015.

For more on the Wisconsin law, see our article, [Wisconsin Becomes 25th Right-to-Work State](#).

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### Meet the Authors



[Philip B. Rosen](#)

Principal  
New York Metro  
New York City 212-545-4001  
Email



[Gregory H. Andrews](#)

Principal  
Chicago 312-787-4949  
Email

### Practices

Labor Relations

